

2005 DRAFTING REQUEST

Bill

Received: **12/10/2004**

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

For: **Marlin Schneider (608) 266-0215**

By/Representing: **himself**

This file may be shown to any legislator: **NO**

Drafter: **csundber**

May Contact:

Addl. Drafters:

Subject: **Trade Regulation - other**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Schneider@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Do not call: cell phones, threats by telemarketers, list expiration

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1				_____			Crime
/1	csundber 01/24/2005	lkunkel 02/14/2005	jfrantze 02/15/2005	_____	mbarman 02/15/2005	lnorthro 02/21/2005	State Crime

FE Sent For:

<END>

→ At
Intro.

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/P1	csundber	1/mk 2/14	John	Rs 2/15			

FE Sent For:

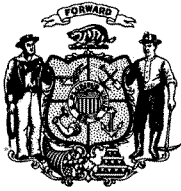
<END>

12/11/04

M. Scheider (via MDR)

Do not call list

- ① make provisions app. to cell phones
- ② list should last 5 years, like the federal list
- ③ create felony: threats by telemktrs to recipients of their calls.



State of Wisconsin
2005 - 2006 LEGISLATURE

Other

LRB-1202/1

CTS: [initials]

2005 BILL

12/1/24/05

(d-n)

Gen Cat

1 AN ACT ...; relating to: certain telephone solicitations and creating a penalty. ✓

Analysis by the Legislative Reference Bureau

Current law imposes certain restrictions upon telephone solicitors, including the following: (1) a telephone solicitor may not make a telephone solicitation to a residential customer if the residential customer's telephone number is included in a directory of residential customers who do not wish to receive telephone solicitations (directory); (2) a telephone solicitor may not make a telephone solicitation to a nonresidential customer who has provided notice to the telephone solicitor by mail that the nonresidential customer does not wish to receive telephone solicitations. ✓

Under current law, the definitions of residential customer and nonresidential customer do not include mobile telephone customers. ✓ This bill broadens the definitions of residential customer and nonresidential customer to include persons who are furnished with commercial mobile service. As a result, under the bill, cellular telephone numbers may be included in the directory of residential customers who do not wish to receive telephone solicitations, and telephone solicitors may not make telephone solicitations to such cellular telephone numbers. ✓ Also under the bill, a nonresidential cellular telephone customer may provide notice by mail to a telephone solicitor that the nonresidential customer does not wish to receive telephone solicitations. ✓

Current law also requires a residential customer who does not wish to receive telephone solicitations to provide biennial notice to the department of agriculture, trade and consumer protection (DATCP). DATCP must eliminate a customer who fails to give the required notice from the directory. The bill extends the length of time for which a residential customer's notice to DATCP remains effective: under the bill, a residential customer must provide the required notice every five years.

BILL

Finally, the bill prohibits a telephone solicitor or an employee or contractor of a telephone solicitor from threatening violence or harassment against the recipient of a telephone solicitation, against a member of the recipient's household, or against the recipient's property. A telephone solicitor, employee, or contractor who violates this prohibition with intent to frighten, intimidate, threaten, abuse, or harass may be sentenced to a term of imprisonment of not more than three years and six months, a fine of not more than \$10,000, or both.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

FE-State The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 100.52 (1) (bm) of the statutes is created to read:

100.52 (1) (bm) "Commercial mobile service" has the meaning given in s. 196.01 (2i).

SECTION 2. 100.52 (1) (d) of the statutes is amended to read:

100.52 (1) (d) "Nonresidential customer" means a person, other than a residential customer, who is furnished with telecommunications service or commercial mobile service by a telecommunications utility.

SECTION 3. 100.52 (1) (f) of the statutes is amended to read:

100.52 (1) (f) "Residential customer" means an individual who is furnished with basic local exchange service or commercial mobile service by a telecommunications utility, but does not include an individual who operates a business at his or her residence.

SECTION 4. 100.52 (2) (b) of the statutes is amended to read:

100.52 (2) (b) The department shall promulgate rules for establishing, maintaining, and semiannually updating a directory that includes listings of residential customers who do not wish to receive telephone solicitations made on

BILL

behalf of telephone solicitors. The rules promulgated under this paragraph shall establish requirements and procedures for a residential customer to request a listing in the directory. The rules shall also require a residential customer who requests a listing in the directory to notify the department ~~on a biennial basis~~ every five years if the residential customer wishes to continue to be included in the directory. The department shall eliminate a residential customer from the directory if the customer does not make the ~~biennial~~ notification required by this paragraph.

History: 2001 a. 16 ss. 2435 to 2446f, 2819b, 2821b.

SECTION 5. 100.52 (4) (a) 4. of the statutes is created to read:

100.52 (4) (a) 4. Threaten violence or harassment against the recipient of a telephone solicitation, against the a member of the recipient's household, or against the recipient's property.

SECTION 6. 100.52 (10) (a) of the statutes is amended to read:

100.52 (10) (a) Except as provided in par. (b) and (c), a person who violates this section may be required to forfeit \$100 for each violation. *or a contractor*

History: 2001 a. 16 ss. 2435 to 2446f, 2819b, 2821b.

SECTION 7. 100.52 (10) (c) of the statutes is created to read:

100.52 (10) (c) A telephone solicitor or employee of a telephone solicitor who, with intent to frighten, intimidate, threaten, abuse, or harass, violates sub. (4) (a) 4., is guilty of a class I felony.

SECTION 8. Effective date.

(1) This act takes effect on the first day of the fourth month beginning after publication. ✓

(END)

d-w

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1202/P1dn
CTS: *mk*

(date)

of

Representative Schneider:

The felony created by this draft is a Class I, for which the maximum penalty is a fine not to exceed \$10,000[✓] or imprisonment not to exceed 3 years and 6 months, or both. Is this okay? I have also included a delayed effective date, in order to provide a measure notice to those affected by the bill.

Please let me know if you have any questions or if you would like to make any changes. ✓

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail: christopher.sundberg@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1202/P1dn
CTS:lmk:jf

February 15, 2005

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Please let me know if you have any questions or if you would like to make any changes.

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail: christopher.sundberg@legis.state.wi.us

Northrop, Lori

From: Schneider, Marlin
Sent: Monday, February 21, 2005 9:44 AM
To: LRB.Legal
Subject: Draft review: LRB 05-1202/1 Topic: Do not call: cell phones, threats by telemarketers, list expiration

It has been requested by <Schneider, Marlin> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-1202/1 Topic: Do not call: cell phones, threats by telemarketers, list expiration